





# THE DAILY COMMONWEALTH.

FRANKFORT, SATURDAY, JAN. 9, 1847.

## KENTUCKY LEGISLATURE.

### IN SENATE.

FRIDAY, JANUARY 8, 1847.

The Senate was opened with prayer by Rev. Mr. Mitchell, of the Methodist Church.

Petitions were presented by the following Senators, viz: Messrs. Draffin, Thurman, Bristow and James, which were appropriately referred.

### Reports of Standing Committees.

Mr. HARDIN, from Committee on the Judiciary, reported a bill for the benefit of Rebecca Morrison, and heirs of Jos. A. Morrison, dec'd.; authorizing the said Rebecca to file a bill in the Adair Circuit Court, to sell three tracts of land; passed.

Also, a bill from H. R. for the benefit of Richard Buchanan and Benj. Hayden; passed.

Mr. WALKER, from Committee on Propositions and Grievances, a bill from H. R., for the benefit of Sylvester and Rebecca Patton, changing their names to Stafford, with an amendment legitimizing them; passed.

Also, a bill for the benefit of Wm. Waddington, of Caldwell, authorizing him to bring certain slaves into this State.

Mr. PATTERSON stated the circumstances of this case to be, that the petitioner in 1843 or 1844, removed to the State of Mississippi, with the intention of settling there, and took his slaves with him; disappointed in his expectations there, he returned to Kentucky, not however abandoning his intention of removing to Mississippi during the ensuing fall, if he could make satisfactory arrangements; the state of his affairs here, his wife, ill health and subsequent death of his wife, had induced him to yield all idea of removing from the State, and he now desired to bring his slaves back.

Mr. BUTLER regretted that it fell to his lot to oppose a measure in which his friend from Caldwell felt a personal interest, but he felt compelled under a high sense of duty, to oppose all such bills. We have a general law against the policy of importing slaves into this Commonwealth. A law is a rule of action, uniform and universal, and when it ceases to be such, it becomes capricious and oppressive. Successful applications of this kind have been repeated to such an extent, as to insure an almost indiscriminate importation of slaves into the State. The grounds upon which such applications are based, are always specious, and in almost every case, the same; indeed to avoid trouble to the Legislature and to individual citizens, it would be better to stereotype the usual petition, and have it printed, ready for the signature of any one who wishes to bring slaves into the State. What are the circumstances of this case? This man so slightly bound by local ties, or patriotic feelings, as to be willing to emigrate from the State, went to the South, with the view perhaps of making his slaves more profitable; finding himself mistaken, he returns to Ky., and asks permission now to bring back his slaves. It matters not that these slaves were taken from Ky. Are we to hunt out the herds of slaves who have been taken from Ky., and bring them again among us? There is no reason why the importation of such more than others, should be permitted. If these constant exceptions are to be made, the general law is a mockery; nay worse, it is a chain upon one, and an immunity to others. He was opposed to interfering with the established policy of the State as indicated by the law of 1833.

Mr. HEADY—A proper modification of the law of 1833, would obviate all the difficulty, and prevent all the trouble, which arises year after year from applications of this sort. He was against the law at the time of its adoption; but would not now vote for its unconditional repeal. He desired, however, a modification, which would obviate the necessity of these repeated applications for individual legislation. Gentlemen would come here with petitions from their constituents, to be permitted to bring slaves into the State—have their petitions granted, and then turn round and oppose every effort made to modify the law. He moved to pass this bill over in the orders of the day, but subsequently withdrew the motion.

Mr. PATTERSON—No senator upon that floor was a friend of the general law of 1833, or had manifested that friendship in a more unequivocal manner than himself. The law, as his friend from Jefferson had said, was a rule of action; but it is sometimes necessary to change this rule of action, and such was the object of the bill before the Senate. There were circumstances that required and justified individual exceptions to the general law, and this he believed to be a case of that description.

The passage of this bill, would not violate the spirit of the law of 1833. The object of that law, was to prevent the further importation of slaves into this State—this bill grants permission to bring back some slaves taken from the State—does not give the petitioner liberty to go into another State, and buy slaves, and bring them here.

Mr. HARRIS—Has always been opposed to the law of 1833, and believes it to be an unconstitutional interference with the rights of the citizens. Moved to recommit the bill with instructions to committee, to bring in a bill to modify the law of 1833, so as to permit citizens of Kentucky to bring slaves into the State for their own use.

Upon this motion, the yeas and nays were demanded, and were as follows, viz:

YEAS—Messrs. Ballard, Bradley, Bramlette, Brien, Bristow, Draffin, Evans, Harris, Heady, James, Marshall, McNary, Patterson, Peyton, Rice, Russell, J. Speed Smith, South, Thurman and Walker—20.

NAYS—Messrs. Boyd, Butler, Crenshaw, Fox, Hardin, Hawkins, Holloway, Key, Slaughter, Swope, Taylor, Thomas, Thornton, Todd, Wall and Williams—16.

Mr. BOYD, from Committee on Religion, reported a resolution against the petition of Letitia Ann Casey, for a divorce.

Mr. PEYTON moved to recommit the petition to the committee, with instructions to report a bill in accordance with the prayer of the petitioner, which motion was adopted.—Yeas 18—Nays 15.

Mr. BOYD, from same committee, reported a resolution against the petition of Catharine Hutchinson, for a divorce, which on motion of Mr. BRISTOW, was referred to Committee on Judiciary.

Leave was given to bring in the following bills, viz:

Mr. THORNTON, a bill to settle the claim of C. J. Blackburn against the State of Kentucky; referred.

Mr. RICE, a bill to amend an act establishing the Lawrence County Coal Mining Company; referred.

Mr. DRAFFIN, a bill to protect sheep from destruction by dogs in this State; passed.

Mr. TODD, from select committee, reported a bill concerning conveyances of property made in trust; referred to Committee on Judiciary.

Mr. HEADY, from Committee on Military Affairs, reported a bill to incorporate the Kentucky Military Institute, with amendments; referred.

Mr. TAYLOR offered a resolution, instructing the Committee on Public Buildings to employ a proper person to examine the ceiling of the Senate Chamber, and repair the same if necessary; passed.

Mr. RUSSELL offered the following resolution: *Resolved*, That so much of the Governor's message as relates to further legislation on the subject of a settlement with the Board of Internal Improvement, be referred to the Committee on Internal Improvement.

The SPEAKER laid before the Senate, a written communication from the Governor, containing sundry nominations in the militia, which were concurred in. Also, the nomination of the following persons as Sheriffs, which were concurred in:

Henry Wingate, Franklin county; V. H. Jones, Edmonson county; G. W. King, Henderson county; Samuel Tipton, Estill county; Richard Soward, Mason county; Wm. Abner, Owsley county; and R. B. Hall, Warren county.

### Orders of the Day.

The resolutions of the H. R., providing for the presentation of a sword to the widow of Maj. P. N. Barbour, dec'd., and for the removal of his remains to Kentucky, for the purpose of interment, came up in the orders of the day.

Mr. J. SPEED SMITH said, that no one was more willing and ready than himself, to award merit to distinguished officers who had served their country well; but while he would participate in rendering the deed of applause and admiration to this gallant young officer, he would not at the same time forget that something was due to others, who had in days gone by, fallen in the service of their country. We had a Davies—an Allen—a Simpson—a Todd, and many others, whose names deserve to be recorded in our memories, and this young hero was a fit associate in that galaxy of brave and noble spirits. With the view of devising some suitable plan, which would embrace all, he moved the reference of the resolutions to a select committee.

Mr. HARRIS united with the Senator from Madison, in rendering all honor to the gallant hero who offered up his life in the vindication of his country's honor; but to the poor, ragged and forgotten soldier, whose name is never heralded through the public prints, and whose bones bleach on the desert battle-field, belongs as much praise, as to the officer, with his epauletts, and his glittering sword, and his waving plume. He was not in favor of making any distinction, but should it be the sense of the Senate to pass resolutions of this nature, he should move an amendment, by way of addition, providing for the removal of the remains of one of Kentucky's most distinguished sons—the lamented Wm. T. Barry, that they might find a last resting place upon the soil of his own State.

### Mr. HOLLOWAY said:

Mr. SPEAKER—I hope it may be the pleasure of the Senate to pass these resolutions. I was not aware that there was an intention to introduce them. Yet, as they have passed the other house, and propose doing only justice to the memory of a gallant young officer, they meet my hearty approbation.—The subject of these resolutions, Mr. Speaker, was well known to both of us from his childhood. From my earliest recollection, his father and mine occupied adjoining farms, and lived in good neighborhood to the days of their death; and such was young Barbour's early deportment, and thirst for knowledge in the profession he selected, that when he left home to enter the Academy at West Point, although a youth, we looked upon him as possessing more than ordinary promise. After his studies were completed, on a visit to his family before joining his Regiment, we saw him in manhood, a fine scholar, developed mind, and accomplished gentleman. With our knowledge, Mr. Speaker, of his temperance, and thirst for promotion, the general expression of opinion was, that if opportunities presented, he would earn distinction for himself, and honor for his State. It was during this visit that he had an attack of fever that detained him several weeks, and during this illness I formed his intimate acquaintance as a man—and I appeal to you, Mr. Speaker, and to Senators, if there are any who had the pleasure of his acquaintance, if to know him was not to love him. He was an ornament to our country—an ornament to his profession—and an honor to his native State.

Major Barbour joined the army in 1825, as Lieutenant, and his conduct during the whole Florida war, met the full expectation of his most sanguine friends. He was not in an engagement in which he did not display the greatest gallantry. As an evidence of it, I believe he received more brevets for good conduct, than any officer ever did of his age. His career has displayed that great military taste for which his family was distinguished. His maternal grandfather, was an officer of distinction in the revolutionary war, and though old and infirm, conducted a campaign in the north-west during the last war. His father was also an officer of promise.—You, Mr. Speaker, no doubt remember his gallant bearing while the troops were encamped in our town. He is also of kindred blood to that "rough" old soldier who commands the army of invasion.

I am informed by a gentleman of the other House, who has seen a letter from Capt. Henry, of the 3d Regiment, who states that on the night preceding the battle at Monterey, Major Barbour handed to him a letter directed to his beloved wife, sealed with black, and informed Capt. H. that he (Maj. B.) had just learned the order of battle, and the position of his regiment and he had a presentiment that he would fall in which event, he desired Capt. H. to look out his body, strip it of his sword and sash and deliver them to his wife, to be given to his child, if a son, as a legacy from its father—its only inheritance.

This presentiment proved to be a revelation, for in the charge on the 21st after all his superior officers had fallen, and he had assumed the command of his regiment, he was raked by a grape shot, leaving the intestines exposed. In this situation, though bleeding profusely he led on his Spartan band; refusing to relinquish the command, he declared he would take that battery or die on the ground!

While we are passing resolutions, regretting that our soldiers were not better paid, when they were called into the field; and are instructing our Congressmen to vote them adequate compensation—may it not be right to pass these resolutions honoring the memory of this most gifted and gallant officer. He is the only soldier of distinction that has fallen in battle in this foreign war, and by honoring his memory, may it not animate others to emulate his valor, and thereby sustain the chivalry of Kentucky.

Mr. Speaker, I desire the Senate to pass the resolutions, because I think it is our duty to do so; and I desire it particularly, because, if they are lost, after having passed the other House, it will be withering to the already crushed hopes of his accomplished widow.

Mr. PEYTON—Desired these resolutions to be passed at once. Other States were taking similar action, in reference to their sons who have fallen in battle. There was no necessity for delay; no money is asked. Because Kentucky has been backward hitherto, in acknowledging in an appropriate manner the worth of her heroic sons; that fact affords no good reason why she should now refuse to do honor to the memory of one, whose career, though short, was brilliant, and shed such a lustre upon his native State. Indeed it was a strong reason why these resolutions should be adopted. The passage of this resolution would not defeat any general plan, such as proposed by the Senator from Madison.—He hoped they would be acted on at once.

Mr. J. SPEED SMITH.—The passage of these resolutions would require the expenditure of money—the sword, if provided, and the removal of the mangled corpse, would require the use of money.—If the resolutions were merely intended as an empty compliment, he should vote against them.—Kentuckians want no such compliments. He wanted to place on the bill overlooking the capitol, a monument of Kentucky marble, inscribed with the names of those, whose steps in peace illustrated the life of a citizen, and whose acts in war, had achieved for themselves and their country, an imperishable renown. He would not embarrass the resolutions against the wishes of the friends of them, and withdrew his motion.

Mr. PEYTON explained, that he had said that the resolution itself could not appropriate money—that further action in a proper manner was contemplated.

Mr. HELM remarked that nothing so sensibly excited the finer feelings of his nature, as a recital of the events of a warrior hero's life. He would heartily unite in any effort to honor the memory of the brave man, who had fallen in defence of their country's honor. This young hero had been actively engaged in a war which he feared, was but yet in its incipient stage. Mexico is watching with anxious eye the political strife and dissension in this country, and hopes to reap great advantages therefrom. He desired the United States, and the several States comprising this great confederacy, to present an unbroken front in this war, and to show that arch intriguer, the betrayer of public and private trusts, who has managed again to assume the direction of the destiny of the Mexican States, that he has nothing to expect from internal dissension here. One Kentuckian has fallen, let Kentucky—the nursery of brave men—commemorate the chivalry of her son, in the manner proposed. With the view of providing the means of carrying out the objects proposed in the resolutions, Mr. H. moved to refer them to a select committee, and they were accordingly so referred.

On motion the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

Prayer by the Rev. Mr. Norton.

The journal of yesterday was read.

The Speaker laid before the House the report of the board of trustees of the Deaf and Dumb Asylum at Danville.

On motion of Mr. MITCHELL the report was ordered to be printed, and together with so much of the Governor's message as relates to this subject; referred to a Select Committee.

Petitions were presented by Messrs. Waller, Desha, Salter, Covington, Wright and Stewart, which were referred to appropriate committees.

A petition of certain widows of Mason county, and another of citizens of the same county, were read, and referred.

A message was received from the Senate announcing the passage of sundry acts and bills.

On motion of Mr. MERIWETHER the petition of citizens of Clarke, &c., praying a new county, was referred to the committee on Propositions and Grievances.

### Reports of Standing Committees.

The chairman of the Judiciary Committee, to whom was referred the bill for the benefit of Benjamin Paine; reported the bill without amendment; passed.

Of Religion—against the petition of Fletcher Sullivan; a motion was made to refer the petition back again with instructions. It was discussed by Messrs. Botts, Crockett, Armstrong, Towles, and Evans; carried.

Also—on the petition of Maria J. Shelby, a bill for divorce. The petition having been read and discussed by Messrs. Glenn, Wortham, Young, Spalding, Proctor and Botts. The yeas and nays were called, and the vote stood yeas 44, nays 51. So the bill was rejected.

On Internal Improvement—a resolution requesting information from the board of Internal Improvement; adopted.

Also—a resolution referring so much of the Governor's message as refers to Internal Improvement, with the report of the board to the Committee on Internal Improvement; adopted.

### Special Order.

The hour of 12 having arrived, the House took up the Convention bill.

Mr. HANSON addressed the House at length, in favor of the bill. He had supposed that the bill would pass the House without any discussion; that every member here had made up his mind upon the question. As a friend of a Convention, he was willing and ready to meet the question. A member from a Convention county, he was expected to say something by those whom he represented, in favor of the measure.

He would in the first place proceed to notice some objections of those who were opposed to the bill, particularly of his friend from Franklin, (Mr. Reed) who had occupied the floor yesterday.

He did not appear here to assail the venerable constitution under which he now lived; he did not appear to assail the framers of that instrument, or the men of their day. He revered their patriotism, their manly virtues; but he appeared here to express his opinion as a freeman, and as the representative of a free people. The gentleman yesterday characterized the Constitution under which we live, as the child of the revolution, and therefore revered it. If it is entitled to reverence on that account, much more was the Constitution of 1792; yet certainly there were provisions in it which he would not wish to see re-enacted. He could not yield to this logic. Mr. H. proceeded to notice some of the provisions of the Constitution of 1792. It could only be changed or amended in a particular mode, and that very difficult to accomplish. The Convention which formed the existing Constitution, was not called by the people, but by the Legislature. Under the old instrument, the Governor was elected, not by the people, but similarly to the President of the United States by electors. Senators were elected in a similar mode. They had the power to fill any vacancies which might occur among their own number.

When the question comes up then for a change—when a new constitution was demanded, it was declared that there was danger in a change; that the spirit of the age was ultra; that it could not with safety be trusted. The same denunciations were uttered against it which are reiterated now. Mr. H. said he venerated the men who formed our present constitution. But they themselves did not believe they possessed all the wisdom necessary for making an unalterable constitution. They provided a mode in which it might be amended. No argument could be drawn from the wisdom of their instrument against change. Time can never consecrate error! never!! The convention which formerly assembled here in Frankfort, remained in session only twenty days, and then broke up in peace and harmony. It is supposed that excitement, insurrection or ruin, will attend the sittings of a convention. The former was a time of deep and general excitement; yet, no outbreak occurred, no disturbance of the usual quiet. It was one of the beauties of our government, that changes could be made in the fundamental laws without confusion or anarchy.

Mr. H. did not feel bound to state what amendments were needed; but he would point out some of them. He had not the arrogance to say that he

could make a better Constitution than the present one; but he felt sure a Convention, with the lights of past experience before them, could do so.

He adverted to the history of the U. States Constitution. It was framed by the sages of the Revolution, with all their political experience; and yet it was imperfect. Many of the most valuable guarantees of our rights have been secured in amendments. The right of a free expression of opinion—of the press—of speech—of petition—of trial by jury—of excessive bail—all had been secured by amendments. It would be recollected what difficulties occurred on the election of President Jefferson—all from the imperfection of the Constitution.

Mr. H. next noticed some amendments which were desired by the friends of a convention and reviewed first, the judiciary system.

He did not desire an elective judiciary, nor had he ever seen six Kentuckians who did desire it. But the present system was radically wrong. He wished to see it revised. The terms of office should be reduced and shortened. The gentleman yesterday said that corrupt judges could be removed by abolishing the courts under which they held office; but by this plan ninety-nine innocent were involved in the punishment of one guilty judge.

Mr. H. spoke at length upon the evils of the judiciary system, and also upon the tenures of the clerk and sheriff's offices. He alluded to the subject of slavery. He did not favor emancipation. But he wished a constitutional provision respecting emancipated slaves. They were dangerous to the property of the State. This matter of itself was of importance enough to warrant a convention. He wished also to take away the power of granting divorces, and of changing names, from the legislature, prolific sources of local legislation.

He would impose a limit to the power of contracting debt by the State. The history of other States was a warning upon this question. Mr. H. alluded to these topics at some length, and concluded by observing that the people called for a convention, they would have one now, or at no distant day. The other branch of the legislature had conceded the privilege by a great majority, and he hoped this house would do the same.

On motion of Mr. GRAVES the bill before the House was laid upon the table for the purpose of taking up the convention bill reported from the Senate. The Senate bill was then read and the second reading dispensed with.

Mr. MERIWETHER offered two amendments, which the House refused to adopt.

Mr. WILLIAMS offered an amendment relative to the determination of the number of qualified voters by the commissioners of elections. The amendment was supported by the mover, and discussed by Messrs. McHenry, Stevenson, Waller, Evans, Reed, Hanson, Crockett and Brown, when the question being taken on the amendment, it was rejected: yeas 17—nays 81.

The third reading being dispensed with the bill passed.

Yeas—Messrs. Abell, Alexander, Armstrong, Beeler, Bell, Board, W. S. Botts, Bowman, Bowman, Boyd, Bradford, Brown, Bush, Clark, Cobb, Coleman, Crawford, Crockett, Covington, Desha, Durbin, J. Elliott, M. Elliott, English, Evans, Fletcher, Foley, Glenn, Graves, Haggard, Hager, Hall, Hanson, J. H. Jones, W. L. Jones, Jordan, Mansfield, Marshall, Martin, Mayhall, Mays, McArthur, Moore, Munford, Mumford, Ogelsby, Owens, Page, Pearl, Phillips, Proctor, Purdon, Riddle, Rouse, Salter, Smith, Soery, Spalding, Steele, Stevens, Stevenson, Stewart, Tabbutt, Tandy, Thompson, Towles, Verreest, Wade, Walker, Waller, Wheeler, White, Williams and Wright—81.

Nays—Messrs. Speaker, Alunt, Botts, Devereux, Dickerson, Harrison, Hay, Hobbs, McCallister, McHenry, Meriwether, Mitchell, Reed, Rhea, Spurr, Thomas and Wortham—17.

On leave Mr. PEARL from a select committee reported a resolution for the impeachment of John A. Duff, Surveyor of Perry county; referred to Messrs. Pearl, Botts, and Armstrong.

The House then adjourned.

CONGRESS.—The Senate was not in session on Saturday, the 2d inst.

In the House of Representatives, the resolution submitted by Mr. Cobb, in favor of rescinding that portion of the 41st rule, which permits any member desiring to be excused from voting, to make a brief statement of his reasons for desiring to be excused, was adopted—yeas 85, nays 73.

The Speaker then proceeded to call the States in their order for resolutions. Among those introduced were the following:

Mr. Thomason submitted the following resolution, which was agreed to: *Resolved*, That the Committee on Territories inquire into the propriety and expediency of setting apart and defining by district lines and bounds, a district of country west of the Rocky Mountains for the use of the Indians in the Oregon Territory in perpetuity, in which district no white man shall settle without permission of the President of the United States; and then only for the purpose of instructing and improving the Indians.

Mr. Tibbatts submitted the following resolution; which was agreed to:

*Resolved*, That the Committee on Ways and Means inquire into the expediency of increasing the tariff of duties on all dutiable articles under the present tariff act as high as the revenue standard will permit; of imposing duties on spirits distilled or manufactured in the United States; also, on licenses to retailers of liquors; also, on pleasure carriages and gold and silver ware, as a war measure, instead of levying duties on tea and coffee.

Mr. Davis submitted the following resolution; which was agreed to:

*Resolved*, That the Secretary of the Treasury be requested to furnish this House, from the files of his department, all the papers relating to the recent discharge of Captain L. C. F. Fatio from the revenue service, including all copies of his correspondence with the department, or its officers, upon that subject.

Mr. Wentworth submitted the following resolution, upon which he demanded the previous question: *Resolved*, That it is inexpedient to levy any tax upon tea and coffee.

Mr. Payne. I desire to debate that resolution. Mr. Speaker. It is too late to debate the resolution—the gentleman from Illinois (Mr. Wentworth) having demanded the previous question thereon.

Mr. R. Chapman. Mr. Speaker, I desire to know if gentlemen can, in the same breath in which they present a resolution to which there is objection, move the previous question, and thus cut off all debate or objection! If so, gentlemen may continually follow the same course.

The Speaker said that it had been frequently decided that any gentleman had a right to demand the previous question; and that the previous question being demanded, necessarily precluded all debate.

Mr. Payne moved that the resolution be laid on the table; upon which motion,

Mr. Wentworth demanded the yeas and nays; which were ordered, being taken, resulted yeas 9, nays 106.

The question being upon seconding the demand for the previous question—103 voting in the affirmative, does not count—there was a second.

The question "Shall the main question be now put?" was decided in the affirmative.

The Speaker proceeded to put the main question, when the yeas and nays were demanded and ordered, and on being taken, stood yeas 115, nays 48.

So the resolution was adopted.

Mr. Kelle submitted the following resolution, which was agreed to: *Resolved*, That the bill to raise for a limited time an additional military force, be made a special order for Monday next.

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January 1, 1847.

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